

**STATE HUMAN RIGHTS COMMITTEE
MEETING MINUTES**
Chesterfield Community Services Board
6801 Lucy Corr Court
Chesterfield, Virginia, 23832
Friday, December 3, 2004

ADMINISTRATIVE MEETING
8:00 a.m.

COMMITTEE MEMBERS PRESENT

Joyce Bozeman, Chair
Michael Marsh, Vice-Chair
Delores Archer
Angela Brosnan
Barbara Jenkins
Bobby Tuck
Kirby Wright
Davey Zellmer

HUMAN RIGHTS STAFF PRESENT

Margaret S. Walsh, State Human Rights Director
Kli Kinzie, Executive Secretary
Chuck Collins, Regional Human Rights Advocate, Region I
Musa Ansari, Regional Human Rights Advocate, Region II
James O. Bowser, Jr., Regional Human Rights Advocate, Region IV
Reginald T. Daye, Regional Human Rights Advocate, Region V
Michael Curseen, Patient Advocate, Central State Hospital
Beverly W. Garnes, Patient Advocate, Southside Virginia Training Center
Tonya Cunningham, Facility Human Rights Advocate, CSH Forensics
Willie Barnes, Human Rights Advocate, Eastern State Hospital
Linda Brechbill, Facility Human Rights Advocate, Northern Va Mental Health Institute
Anne Stiles, Facility Human Rights Advocate, Piedmont Geriatric Hospital and Virginia Center
for Behavioral Rehabilitation

OTHER STAFF PRESENT

Frank Tetrick, Assistant Commissioner, Community Services, Division of Programs

Lee Price, Director, Office of Mental Retardation Services

Letter from WSH Advocate

The committee discussed a request made by Randy Uργο, Western State Hospital facility advocate. The committee will revisit this item during the regular session.

2005 Meeting Schedule

The Committee reviewed and accepted the 2005 SHRC meeting schedule.

SHRC Workplan

Ms. Margaret Walsh, State Human Rights Director, lead the committee's review of SHRC workplan activities.

SHRC Goal : LHRC Application Guidance (Sub-Committee Michael Marsh, James Bowser and Reginald Daye)

Ms. Walsh reported that the LHRC Application Revision packet went out to OHR staff following the October 22 SHRC meeting. Mr. James O. Bowser, Jr., Regional Human Rights Advocate for Region IV, summarized the changes that were incorporated into the new draft. Reginald T. Daye, Regional Human Rights Advocate for Region V, suggested the use of codified definitions in the interest of clarity. Ms. Barbara Jenkins, J.D., suggested changing the language used for ranking applicants. The committee will revisit this item during the regular session.

SHRC Goal 1: Periodic Review of Regulations : H3R Advisory Committee

Margaret Walsh updated the committee on the activities of the H3R Advisory Committee.

Youth in Transition

The Subcommittee on Aging Out will report to the SHRC during the January 21, 2005 meeting.

SHRC Goal 7: LHRCs Attend LHRC Meetings

The SHRC reviewed and accepted the worksheet to be used when attending LHRC Meetings.

Enhanced Communication Sub-Committee (Carmen Anne Thompson and Barbara Jenkins)

Davey Zellmer volunteered to be on the SHRC newsletter sub-committee.

Management of Variances

The committee reviewed the worksheet for application for variances. Karen Walters, Special Counsel for DMHMRSAS, advised a modification to the document. The OHR will finalize the document and distribute to staff.

Catawba Hospital LHRC

The SHRC reviewed a letter from Catawba Hospital LHRC.

SHRC Bylaws: Review Office of SHRC Secretary §5.1, Officers

Margaret Walsh presented the revised SHRC Bylaws to the SHRC. The Bylaws have been modified to allow for a Secretary at the option of the Committee. Members present were satisfied with the draft document. Dr. Joyce Bozeman, Chair, asked that the revised SHRC Bylaws be forwarded to the State MHMRSAS Board for approval at the next Board meeting.

SHRC Goal 4: TOVA Training

The SHRC reviewed a draft letter to Commissioner Reinhard regarding the excellent TOVA presentation provided to the SHRC by Mary Clair O'Hara and Stacey Fisher during the October 22, 2004 SHRC meeting. The committee was pleased with the letter and asked that the OHR send it out.

Monthly Facility Advocate's Report for VCBR

The SHRC reviewed monthly advocate's reports for Virginia Center for Behavioral Rehabilitation (VCBR). Anne Stiles, Facility Human Rights Advocate, Piedmont Geriatric Hospital and Virginia Center for Behavioral Rehabilitation, was present to answer questions from the committee regarding activities at VCBR.

SHRC Goal 3: Promote Provider Training

Provider Training: Speakers - Frank Tetrick and Lee Price (9:00)

Margaret Walsh introduced Frank Tetrick, Assistant Commissioner, Community Services, Division of Programs, and Lee Price, Director, Office of Mental Retardation Services, DMHMRAS. Mr. Tetrick and Mr. Price provided a draft training schedule and catalogue that addresses a full range of provider training, including training for prospective providers. The proposed training sessions are low in price and accessible throughout the state.

The SHRC thanked Mr. Tetrick and Mr. Price for attending the meeting to discuss this very important training.

REGULAR MEETING

9:45 a.m.

COMMITTEE MEMBERS PRESENT:

Joyce Bozeman, Chair
Michael Marsh, Vice-Chair
Delores Archer
Angela Brosnan
Barbara Jenkins
Bobby Tuck
Kirby Wright
Davey Zellmer

OHR STAFF

Margaret S. Walsh, State Human Rights Director
Kli Kinzie, Executive Secretary
Chuck Collins, Regional Human Rights Advocate, Region I
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Tonya Cunningham, Facility Human Rights Advocate, CSH Forensics
Willie Barnes, Human Rights Advocate, Eastern State Hospital
Linda Brechbill, Facility Human Rights Advocate, Northern Va Mental Health Institute
Anne Stiles, Facility Human Rights Advocate, Piedmont Geriatric Hospital and the Virginia
Center for Behavioral Rehabilitation
Stewart Prost, Human Rights Advocate, Southeastern Virginia Training Center

OTHER STAFF PRESENT:

Dr. Jim Reinhard, Commissioner, DMHMRSAS

OTHERS PRESENT:

George Braunstein, Executive Director, Chesterfield Community Services Board
Kimberly Lindblad, Director of Quality Assurance and Staff Development, Specialized Youth
Services of Virginia
D.C., Complainant
S.H. and J.S. accompanied D.C.
Heather Fisher, Director of Nursing, Virginia Beach Psychiatric Center
Denise Webb, Administrator, Virginia Beach Psychiatric Center
T.M.B., Complainant
John Favret, Facility Director, Eastern State Hospital

CALL TO ORDER:

The December 3, 2004, meeting of the State Human Rights Committee was called to order by Dr. Joyce E. Bozeman, Ph.D., Chair. Dr. Bozeman lead the members in introducing themselves. Advocates and staff of the Office of Human Rights introduced themselves. Dr. Bozeman introduced Mr. George Braunstein, Executive Director, Chesterfield CSB, who welcomed the SHRC and department staff to Chesterfield. Mr. Braunstein provided a brief history and description of services provided by the CSB.

MINUTES:

The minutes of the October 22, 2004, SHRC meeting we unanimously approved.

SHRC Goal 2: Promote Concept of Recovery (10:00)

Margaret Walsh introduced Dr. Jim Reinhard, Commissioner. Dr. Reinhard thanked the committee for the opportunity to speak regarding the department's perspective on the concept of recovery, and provided a PowerPoint presentation titled "Recovery and Self Empowerment".

VARIANCES:

Model Accounting Variance

Southern Virginia Mental Health Institute

The SHRC reviewed the Southern Virginia Mental Health Institute's (SVMHI) request for the model accounting variance to 12 VAC 35-115-80 B6; C3a and b, and C4 of the *Rules and Regulations to Assure the Rights of Individuals Receiving Services From Providers of Mental Health, Mental Retardation and Substance Abuse Services* which would permit the SVMHI to align the above referenced sections with the HIPAA accounting rule.

A motion was made and unanimously passed to approve the model variance to 12 VAC 35-115-80 B6; C3a and b, and C4 for Chesterfield Community Services Board. On the anniversary of the variance approval the institute is to submit a written report for the SHRC's review.

Model Accounting Variance Renewals

The SHRC reviewed requests for renewal of the model accounting variance to 12 VAC 35-115-80 B6; C3a and b, and C4 of the *Rules and Regulations to Assure the Rights of Individuals Receiving Services From Providers of Mental Health, Mental Retardation and Substance Abuse Services* for Catawba Hospital, Hiram W. Davis Medical Center, and Piedmont Geriatric Hospital. The variance renewals were accepted for the record.

The facilities are to continue to meet the annual review requirement by submitting the following information on the anniversary of their variance approvals:

1. Problems with the implementation of the variance;
2. Complaints about the variance from individuals, family members or staff; and
3. A statement or rationale for the continued need of the variance.

Other Variance: Extension Request

The SHRC accepted a variance extension request from Virginia Beach Psychiatric Center for their previously approved variance to 12 VAC 35-115-110 B13. The variance allows the use of a Structured Living Protocol. The extension is granted until January 21, 2005.

Other Variance: Renewal Report

Specialized Youth Services of Virginia

James O. Bowser, Jr., Regional Advocate, Region IV, introduced Ms. Kimberly Lindblad, Director of Quality Assurance and Staff Development for Specialized Youth Services of Virginia. Ms. Lindblad provided the Committee with a brief overview of the services offered by Specialized Youth Services of Virginia, Blandford Manor and the population of children on whom the variance would impact.

Mr. Bowser reported that Blandford Manor is requesting a renewal of the variance to Section 12 VAC –35-115-110 B13, Use Of Seclusion, Restraint and Timeout, of the *Rules and Regulations to Assure The Rights of Individuals Receiving Services From Providers of Mental Health, Mental Retardation and Substance Abuse Services*. Approval of the variance renewal would allow the program to continue use of their Therapeutic Separation Policy, which exceeds the regulatory requirements of 30 minutes per episode for the use of timeout.

A motion was made and unanimously passed to approve as submitted the Specialized Youth Services of Virginia, Blandford Manor, renewal of the variance request and Therapeutic Separation Policy for a period of two years. The program is to meet the annual review requirement by submitting the following information on the anniversary of their variance approval:

- 1. Problems with the implementation of the variance;**
- 2. Complaints about the variance from individuals, family members or staff; and**
- 3. A statement or rationale for the continued need of the variance.**

BYLAWS:

Fredericksburg Area LHRC

Mr. Charles T. Collins, Regional Advocate for Region I, submitted the revised bylaws for the Fredericksburg Area LHRC for approval.

A motion was made and unanimously passed to approve the bylaws for Fredericksburg Area LHRC as submitted.

Northwestern LHRC

Mr. Collins submitted the revised bylaws for the Northwestern LHRC for approval.

A motion was made and unanimously passed to approve the bylaws for Northwestern LHRC as submitted.

SHRC Case 04-02

The SHRC reviewed Commissioner Reinhard's response to SHRC Case 04-02, CSH and R.E. and A.B.

A motion was made and passed by a vote of 5 to 3 that the SHRC send a letter of thanks to the Commissioner for his response. In this letter the committee will ask that someone attend a future SHRC meeting to answer questions about smoking issues at Central State Hospital and throughout the state facility system.

APPEAL:

Report of the Sub-committee for SVMHI : W.S.I.

A motion was made and passed to go into closed session for the purpose of discussing confidential issues related to an appeal hearing.

Upon reconvening in open session, the State Human Rights Committee unanimously certified that to the best of each member's knowledge, only public business matters lawfully exempt from statutory open meeting requirements, and only public business matters identified in the motion to convene the Executive Session were discussed in the Executive Session.

This case came before a subcommittee of the State Human Rights Committee on appeal of a decision of the Southern Virginia Mental Health Institute (SVMHI) Local Human Rights Committee on November 22, 2004. W.S.I. brought forward the appeal. Members present were

Dr. R. Michael Marsh, M.S.W., M.P.A., Ph.D., Kirby Wright and Barbara Jenkins, J.D. Also present were Margaret Walsh, technical support to the SHRC, and Stanley Cousins, Advocate and technical support to W.S.I. Dr. Frank Russell represented SVMHI. Dr. Mikhail Chizokov attended the hearing for SVMHI as well. At the request of W.S.I., the hearing was held in closed session.

The subcommittee reported on the case to the full SHRC at its meeting on December 3, 2004, in closed session. Members present were Dr. Joyce E. Bozeman, Ph.D., Dr. R. Michael Marsh, M.S.W., M.P.A., Ph.D., Kirby Wright, Barbara Jenkins, J.D., Davey Zellmer, R.N., Delores Archer, M.S.W, Dr. Angela Brosnan, M.D. and Bobby Tuck.

By a vote of 8-0, the SHRC upholds the finding and conclusion of the SVMHI LHRC of no violation of 12 VAC 35-115-70 (A)(4), Participation in Decision Making.

LHRC MEMBERSHIP:

The motion was made and passed that the State Human Rights Committee go into closed session pursuant to Virginia Code § 2.2-3711 for the purpose of considering appointments to and removals from Local Human Rights Committees.

Upon reconvening in open session, the State Human Rights Committee unanimously certified that to the best of each member's knowledge, only public business matters lawfully exempt from statutory open meeting requirements, and only public business matters identified in the motion to convene the Executive Session were discussed in the Executive Session.

A motion was made and unanimously passed to appoint the following applicants to their respective Local Human Rights Committees.

Piedmont Community Services LHRC

Appoint

Mr. T. Jerry Womack

Southwestern Virginia Mental Health Institute LHRC

Appoint

Mr. Phillip Moser

Valley Community Services Board LHRC

Appoint

Ms. Virginia Kivlighan

Ms. Nixsa Swinson

University of Virginia LHRC

Appoint

Ms. Cynthia Power

Fredericksburg Area LHRC

Appoint

Ms. Debe Fults

Northwestern Community Services LHRC

Appoint

Ms. Jean Snider

Ms. Lisa Harrison

Southside Community Services Board LHRC

Appoint

Ms. Mona Rainey

Portsmouth Regional LHRC

Appoint

Mr. Cleandrus Nixon
Mr. Robert L. Baker, Sr.
Ms. Eunice Lee Randall Crocker
Ms. Beverly L. Corprew
Mr. Cliffert Norman

A motion was made and passed with one abstention make the following appointments:

Henrico LHRC

Appoint

Ms. Gloria G. Watford
Ms. Helen M. O'Beirne
Ms. Caroline Dixon

LHRC Application Revision Review

The SHRC determined that the revised LHRC Application packet is appropriate. Ms. Walsh will submit information on appropriate interview questions at the January 21, 2005 meeting.

A motion was made and passed by a vote of 7 to 1 to retain the current interview rating system.

APPEALS:

T.M.B. Eastern State Hospital (1:00)

This matter came before the SHRC on appeal of the findings of the Eastern State Hospital LHRC. T. M.B. disagrees with the findings of the Eastern State Hospital Local Human Rights Committee.

Mr. Stewart Prost, Human Rights Advocate, Southeastern Virginia Training Center and Region V, was present to provide technical support to the complainant, T.M.B., daughter of former ESH patient, D.M. Mr. John Favret, Facility Director, Eastern State Hospital, spoke on behalf of the facility and the treatment team for D.M. At the complainant's request the appeal was held in open session.

Mr. Prost summarized the circumstances which lead to the original complaint. T.M.B., complainant, offered a statement. Mr. Favret summarized the hospital's experience in the care and treatment of D.M.

The SHRC unanimously determined that the findings of the LHRC were clearly wrong.

A motion was made and unanimously passed to conduct a hearing at the January 21, 2005 SHRC meeting on the issue of D.M.'s treatment received on December 28 and 29, 2003.

A motion was made and unanimously passed to extend the timeframe for the

appeal until the January 21, 2005 SHRC meeting.

Tidewater Regional LHRC: D.C. (2:00)

This case came before the State Human Rights Committee (SHRC) on appeal of a decision of the Tidewater Regional Local Human Rights Committee (LHRC). D.C. brought forward the appeal and, assisted by Stewart Prost, Human Rights Advocate, presented the case on his own behalf. Members present were Dr. Joyce E. Bozeman, Ph.D., Dr. R. Michael Marsh, M.S.W., M.P.A., Ph.D., Davey Zellmer, R.N., Kirby Wright, Barbara Jenkins, J.D., Delores Archer, M.S.W, Bobby Tuck, and Dr. Angela Brosnan, M.D. S.H. and J.S. accompanied D.C. Heather Fisher, Director of Nursing, and Denise Webb, Administrator, represented Virginia Beach Psychiatric Center (VBPC).

D.C. raises the following issue on appeal: D.C. disagrees with the Tidewater Regional LHRC finding of no violation of 12 VAC 35-115-50 C3b, Dignity, of the *Rules and Regulations to Assure the Rights of Individuals Receiving Services from Providers of Mental Health, Mental Retardation and Substance Abuse Services*. Specifically, he states that existing shower curtains covering the entrance to the bathroom in patients' rooms do not provide for adequate privacy in the bathroom. D.C. requests that the SHRC recommend that VBPC replace the curtains with doors so that a person has sight, smell and sound privacy while using the bathroom.

By a unanimous vote the SHRC finds that having shower curtains rather than doors in the doorways is a violation of 12 VAC-35-115-50 C3b, Dignity. The SHRC agrees with the LHRC's finding that patient safety is a priority, but the Committee believes it is possible to make other arrangements that will take both safety and privacy into account. The SHRC requests that Virginia Beach Psychiatric Center report back to the SHRC within 60 days of receipt of this decision on its plan to protect privacy and dignity in accordance with this decision.

Variance Approval Checklist

Margaret Walsh received comments on the Variance Approval Checklist sheet. The sheet will be updated and distributed to OHR staff with a note that programs should be prepared to address the issues listed in the checklist.

Letter from WSH Advocate

A motion was made and unanimously passed that the SHRC will send a letter to the Chair of the Commonwealth Center for Children and Adolescents (CCCA) LHRC requesting that they conduct a fact-finding hearing on the case of the WSH patient whose legal guardian is a member of the WSH LHRC.

Other Business

The SHRC requests that the March 4, 2005 SHRC meeting be held in Petersburg so they may tour the Central State Hospital Forensic Unit. The Committee also requests a demonstration of pat-downs.

An updated 2005 meeting schedule will be provided to the committee.

Having no further business to discuss, the motion was made and passed to adjourn the meeting.

Respectfully submitted,

A handwritten signature in dark ink, reading "Joyce E. Bozeman". The signature is fluid and cursive, with the first name "Joyce" being more prominent.

Joyce E. Bozeman, Ph.D., Chair
State Human Rights Committee